

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2380 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MRS GAYANIBEN NENUMAL SINDHI

Versus

COLLECTOR OF B.K.

Appearance:

MR BN PATEL for Petitioner

MR SAMIR DAVE for Respondent No. 1

MS KUSUM M SHAH for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/01/97

ORAL JUDGMENT

Heard learned counsel for the parties. The petitioner is also present in person in the Court today.

2. The petitioner has prayed for quashing and setting aside the order dated 15.12.82 of the respondent No.1, annexure 'C', under which the said authority has declined to regularize the encroachment made by the

petitioner on the land in dispute. The possession of the petitioner on the land in dispute was not regularized by the respondent No.1 on the ground that (i) the land applied for by the applicant is shown in the residential zone of the town development plan, and (ii) it is not considered proper to regularize the encroachment as it is important land of the road of Deesa Town. The learned counsel for the petitioner, under instruction of his client, who is present in the Court today, submitted that two other persons who were having their shops on the land adjacent to the petitioner's land were removed from the site, but they were given suitable alternative site and in case the claim of the petitioner is also considered for giving her the alternative suitable site, then she is not interested to press this Special Civil Application. The learned counsel for the respondent very fairly submitted that the claim of the petitioner to give her alternative site will be considered but she has to make an application for the same with clear understanding that she will accept the site allotted to her. The grievance of the learned counsel for the petitioner on this statement is that the alternative site should be suitable and not at far of distance. This objection may not be of any substance because the alternative site has been allotted to two other persons and the respondents will see that the petitioner gets the alternative site just nearby to the site allotted to those two persons.

3. Taking into consideration the aforesaid statement of the learned counsel for the parties, this Special Civil Application is disposed of with directions that the petitioner may, if she so desire, make a application to the respondent No.1 for giving her alternative site, within a period of one month from today. The respondent No.1 shall consider the application, if any made by the petitioner, within a period of three months from the date of receipt of the same. While deciding the said application of the petitioner, the respondent No.1, if so desired by the petitioner, may afford the opportunity of hearing to the petitioner. In case the alternative site is given to the petitioner, she will vacate forthwith the present site. In case the alternative site is not allotted to the petitioner, the respondent No.1 shall pass a speaking order and a copy of the same may be sent to the petitioner by registered post. Interim relief, if any, granted by this Court shall continue till the application filed by the petitioner is decided by respondent No.1 and further for 15 days in case the respondent No.1 decides not to allot alternative site to the petitioner, from the date of such order.

4. In the result, this Special Civil Application is disposed of with aforesaid directions. Rule is made absolute in aforesaid terms with no order as to costs.

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(sunil)